



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2009-0805; FRL-9932-65-Region 5]

**Air Plan Approval; Michigan and Wisconsin; 2006 PM_{2.5} NAAQS PSD
and Visibility Infrastructure SIP Requirements**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of state implementation plan (SIP) submissions from Michigan regarding Prevention of Significant Deterioration (PSD) and Wisconsin regarding visibility infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2006 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This direct final rule will be effective **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days after date of publication in the Federal Register]**. If adverse comments

are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2009-0805 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312) 408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID. EPA-R05-OAR-

2009-0805. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886-9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9401, arra.sarah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of these SIP submissions?

II. What is EPA's review of these SIP submissions?

III. What action is EPA taking?

IV. Statutory and Executive Order Reviews.

I. What is the background of these SIP submissions?

This rulemaking addresses submissions from the Michigan Department of Environmental Quality (MDEQ) and the Wisconsin Department of Natural Resources (WDNR). The states submitted their infrastructure SIPs for the 2006 PM_{2.5} NAAQS on the following dates: Michigan – August 15, 2011, supplemented on July 9, 2012; Wisconsin – January 24, 2011, supplemented on March 28, 2011 and June 29, 2012.

The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions "within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements

that “[e]ach such plan” submission must address.

This specific rulemaking is only taking action on the PSD elements of the Michigan submittal and the visibility element of the Wisconsin submittal. The majority of the other infrastructure elements were addressed in a proposed rulemaking published August 2, 2012, (77 FR 45992). Final action was taken on those elements on October 29, 2012, (77 FR 65478)¹. The infrastructure elements for PSD are found in CAA 110(a)(2)(C), 110(a)(2)(D), and 110(a)(2)(J) and will be discussed in detail below. The infrastructure elements for visibility are also in CAA section 110(a)(2)(D). For further discussion on the background of infrastructure submittals, see 77 FR 45992.

II. What is EPA’s review of these SIP submissions?

A. Michigan- PSD

PSD infrasture elements are addressed in different sections of the CAA: sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J).

1. Section 110(a)(2)(C) – Program for enforcement of control measures; PSD.

¹ For Michigan, action was taken on sections 110(a)(2)(A) through (H), and (J) through (M), except for the prevention of significant deterioration requirements in sections 110(a)(2)(C), (D)(i)(II), and (J), the visibility portion of 110(a)(2)(D)(i)(II), and the state board requirements in (E)(ii). For Wisconsin, action was taken on sections 110(a)(2)(A) through (H), and (J) through (M), except the prevention of significant deterioration requirements in sections 110(a)(2)(C), (D)(i)(II), and (J), the visibility portion of (D)(i)(II), and the state board requirements in (E)(ii).

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet new source review (NSR) requirements under PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160-169B) addresses PSD, while part D of the CAA (sections 171-193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) enforcement of SIP measures; (ii) PSD provisions that explicitly identify oxides of nitrogen (NO_x) as a precursor to ozone in the PSD program; (iii) identification of precursors to PM_{2.5} and the identification of PM_{2.5} and PM₁₀² condensables in the PSD program; (iv) PM_{2.5} increments in the PSD program; and, (v) Greenhouse Gas (GHG) permitting and the "Tailoring Rule."³

(i) Enforcement of SIP measures

The enforcement of SIP measures provision was approved in the October 29, 2012 rulemaking (77 FR 65478) for the 2006 PM_{2.5}.

(ii): PSD provisions that explicitly identify NO_x as a

² PM₁₀ refers to particles with diameters between 2.5 and 10 microns, oftentimes referred to as "coarse" particles.

³ EPA highlights this statutory requirement in an October 2, 2007, guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards" and has issued additional guidance documents, the most recent on September 13, 2013, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" (2013 memo).

precursor to ozone in the PSD program

EPA's "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard - Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline" (Phase 2 Rule) was published on November 29, 2005 (see 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_x as a precursor to ozone (70 FR 71612 at 71679, 71699-71700). This requirement was codified in 40 CFR 51.166.

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including those identifying NO_x as a precursor to ozone, by June 15, 2007 (see 70 FR 71612 at 71683, November 29, 2005).

EPA approved revisions to Michigan's PSD SIP reflecting these requirements on April 4, 2014 (see 79 FR 18802), and therefore finds that Michigan has met the set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2006 PM_{2.5} NAAQS.

(iii): Identification of precursors to PM_{2.5} and the identification of PM_{2.5} and PM₁₀ condensables in the PSD program

On May 16, 2008 (see 73 FR 28321), EPA issued the Final Rule on the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})" (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct PM_{2.5} and other pollutants that contribute to secondary PM_{2.5} formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of PM_{2.5}, otherwise known as precursors. In the 2008 rule, EPA identified precursors to PM_{2.5} for the PSD program to be sulfur dioxide (SO₂) and NO_x (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_x emissions in an area are not a significant contributor to that area's ambient PM_{2.5} concentrations). The 2008 NSR Rule also specifies that volatile organic compounds (VOCs) are not considered to be precursors to PM_{2.5} in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient PM_{2.5} concentrations.

The explicit references to SO₂, NO_x, and VOCs as they pertain to secondary PM_{2.5} formation are codified at 40 CFR 51.166(b)(49)(i)(b) and 40 CFR 52.21(b)(50)(i)(b). As part of identifying pollutants that are precursors to PM_{2.5}, the 2008 NSR

Rule also required states to revise the definition of "significant" as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b) (23) (i) and 40 CFR 52.21(b) (23) (i) define "significant" for PM_{2.5} to mean the following emissions rates: 10 tons per year (tpy) of direct PM_{2.5}; 40 tpy of SO₂; and 40 tpy of NO_x (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_x emissions in an area are not a significant contributor to that area's ambient PM_{2.5} concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (see 73 FR 28321 at 28341).⁴

⁴ EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit, in *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM₁₀ nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1. As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for PM_{2.5} attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR Rule in order to comply with the court's decision. Accordingly, EPA's approval of Michigan's infrastructure SIP as to elements (C), (D) (i) (II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion.

The court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subparts 2 through 5 under part D, extending as far as 10 years following designations for some elements.

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in PM_{2.5} and PM₁₀ emission limits in NSR permits. Instead, EPA determined that states had to account for PM_{2.5} and PM₁₀ condensables for applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(i)(a) and 40 CFR 52.21(b)(50)(i)(a). Revisions to states' PSD programs incorporating the inclusion of condensables were required be submitted to EPA by May 16, 2011 (see 73 FR 28321 at 28341).

EPA approved revisions to Michigan's PSD SIP reflecting these requirements on April 4, 2014 (see 79 FR 18802), and therefore proposes that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2006 PM_{2.5} NAAQS.

(iv): PM_{2.5} increments in the PSD program

On October 20, 2010, EPA issued the final rule on the "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}) - Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" (2010 NSR Rule). This rule established

several components for making PSD permitting determinations for $PM_{2.5}$, including a system of “increments” which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

Table 1: $PM_{2.5}$ Increments Established by the 2010 NSR Rule in micrograms per cubic meter

	Annual arithmetic mean	24-hour max
Class I	1	2
Class II	4	9
Class III	8	18

The 2010 NSR Rule also established a new “major source baseline date” for $PM_{2.5}$ as October 20, 2010, and a new trigger date for $PM_{2.5}$ as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of “baseline area” to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure

SIP requirements of section 110(a)(2)(C) with respect to the 2006 PM_{2.5} NAAQS.

(v): GHG permitting and the "Tailoring Rule"

With respect to CAA Sections 110(a)(2)(C) and (J), EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of section 110(a)(2)(D)(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Michigan has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including GHGs.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group v. Environmental Protection Agency*, 134 S.Ct. 2427. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs,

contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (e.g. 40 CFR 51.166(b)(48)(v)).

EPA anticipates a need to revise Federal PSD rules and for many states to revise their existing SIP-approved PSD programs in light of the Supreme Court opinion. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only

evaluating such submissions to ensure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

At present, EPA is proposing that Michigan's SIP is sufficient to satisfy sections 110(a)(2)(C), (D)(i)(II), and (J) with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved Michigan PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy Section 110(a)(2)(C), (D)(i)(II), and (J). The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision.

For the purposes of the 2006 PM_{2.5} NAAQS infrastructure SIPs, EPA reiterates that NSR Reform regulations are not within the scope of these actions. Therefore, we are not taking action on existing NSR Reform regulations for Michigan. EPA approved

Michigan's minor NSR program on May 6, 1980 (see 45 FR 29790); and since that date, MDEQ and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS.

Certain sub-elements in this section overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E) and section 110(a)(2)(J). These links will be discussed in the appropriate areas below.

2. Section 110(a)(2)(D)(i)(II) – Interstate transport

Section 110(a)(2)(D)(i)(II) requires that SIPs include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

EPA notes that Michigan's satisfaction of the applicable infrastructure SIP PSD requirements for the 2006 PM_{2.5} NAAQS have been detailed in the section addressing section 110(a)(2)(C). EPA further notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

EPA has previously approved revisions to Michigan's SIP

that meet certain requirements obligated by the Phase 2 Rule and the 2008 NSR Rule. These revisions included provisions that: explicitly identify NO_x as a precursor to ozone, explicitly identify SO₂ and NO_x as precursors to PM_{2.5}, and regulate condensable PM_{2.5} and PM₁₀ in applicability determinations and establishing emissions limits. EPA has also previously approved revisions to Michigan's SIP that incorporate the PM_{2.5} increments and the associated implementation regulations including the major source baseline date, trigger date, and level of significance for PM_{2.5} per the 2010 NSR Rule. EPA is proposing that Michigan's SIP contains provisions that adequately address the 2006 PM_{2.5} NAAQS.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. One way that this requirement can be satisfied is through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Michigan's EPA-approved NNSR regulations found in Part 2 of the SIP, specifically in Michigan Administrative Code sections R 336.1220 and R 336.1221, are consistent with 40 CFR 51.165, or 40 CFR part 51, appendix S. Therefore, EPA proposes that Michigan has met all of the applicable PSD requirements for the

2006 PM_{2.5} NAAQS for transport prong 3 related to section 110(a)(2)(D)(i)(II).

3. Section 110(a)(2)(J) - Consultation with government officials; public notifications; PSD; visibility protection.

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. MDEQ's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J). Therefore, EPA proposes that Michigan has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(J) for the 2006 PM_{2.5} NAAQS.

B. Wisconsin- Section 110(a)(2)(D)(i)(II) - Interstate transport.

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B, addressing visibility protection). The 2013 Memo states that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or

an approved SIP addressing regional haze.

On August 7, 2012, EPA published its final approval of Wisconsin's regional haze plan (see 77 FR 46952). Therefore, EPA is proposing that Wisconsin has met the visibility protection requirements of section 110(a)(2)(D)(i)(II) for the 2006 PM_{2.5} NAAQS.

III. What action is EPA taking?

EPA is approving the PSD related infrastructure requirements for Michigan's 2006 PM_{2.5} NAAQS submittals found in CAA sections 110(a)(2)(C), (D)(i)(II), and (J). EPA is also approving the visibility related infrastructure requirements for Wisconsin's 2006 PM_{2.5} NAAQS submittals found in CAA section 110(a)(2)(D)(i)(II).

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**.

If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after date of publication in the Federal Register]**.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of

Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate Matter, Reporting and recordkeeping requirements.

Dated: August 10, 2015.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1170, the table in paragraph (e) is amended by revising the entry for "Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM_{2.5} NAAQS" to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Michigan Nonregulatory and Quasi-Regulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * *	* * *	* * *		
Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM _{2.5} NAAQS.	Statewide	8/15/2011 , 7/9/2012	<u>[insert the date of publication in the Federal Register],</u> <u>[Insert page number where the document begins]</u>	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are not taking action on the visibility protection requirements of (D)(i)(II) and the state board requirements of (E)(ii). We will address these requirements in a separate action.

* * * * *

3. Section 52.2591 is amended by revising paragraph (c) to read as follows:

§ 52.2591 Section 110(a)(2) Infrastructure Requirements.

* * * * *

(c) Approval and Disapproval – In a January 24, 2011, submittal, supplemented on March 28, 2011, and June 29, 2012, Wisconsin certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2006 24-hour PM_{2.5} NAAQS. EPA is approving Wisconsin's submission addressing the infrastructure SIP requirements of section 110(a)(2)(A), (B), (C) with respect to enforcement and the GHG permitting threshold PSD requirement, (D)(i)(II) with respect to the GHG permitting threshold PSD requirement and visibility protection, (D)(ii), (E) except for state board requirements, (F) through (H), (J) except for narrow prevention of significant deterioration requirements, and (K) through (M). We are not finalizing action on (D)(i)(I), the state board requirements of (E)(ii), and the PSD requirement of NO_x as a precursor to ozone in (C), (D)(i)(II), and (J). We will address these requirements in a separate action. We are disapproving narrow portions of Wisconsin's infrastructure SIP submission addressing the

relevant prevention of significant deterioration requirements of the 2008 NSR Rule (identifying PM_{2.5} precursors and the regulation of PM_{2.5} and PM₁₀ condensables in permits) with respect to section 110(a)(2)(C), (D)(i)(II), and (J).

* * * * *

[FR Doc. 2015-20771 Filed: 8/21/2015 08:45 am; Publication Date: 8/24/2015]